

2016 DEC 21 PM 2: 51

DISMISSAL AND CASE CLOSURE UNDER THE ENFORCEMENT PRIORITY CELA SYSTEM

GENERAL COUNSEL'S REPORT

The Office of General Counsel recommends that the Commission exercise its prosecutorial discretion and dismiss the allegation that an unknown respondent fraudulently solicited contributions in the name of Presidential candidate Secretary Hillary Clinton, in violation of 52 U.S.C. § 30124(b).

Complaint filed: October 26, 2015..

1 The Complainant in this matter is Marc E. Elias, General Counsel to Hillary for America, the
2 principal campaign committee for Presidential candidate Secretary Clinton (the "Committee").² He
3 attached an envelope to the Complaint, addressed to Mr. Daniel Vishay of Buffalo Grove, Illinois,
4 which contained a handwritten note purportedly from Secretary Clinton thanking
5 Vishay for his contribution to her campaign.³ The letter was returned to the Committee as "not
6 deliverable as addressed; unable to forward."⁴ The return address on the envelope is also handwritten
7 and states "Hillary for America, New York City, New York 10185."⁵ The letter was posted with a
8 regular stamp and was cancelled in Santa Ana, California, on August 17, 2015.⁶ The Complaint
9 notes that the "custom" stationery used for this mailing, a floral notecard with "Hillary" printed on
10 the front, was purchased from a company in California.⁷ The Complaint indicates that there is no
11 record that the Committee ever received a contribution from any individual named Daniel Vishay,
12 and asserts that the Committee did not send the thank you note.⁸ The Complainant alleges that the

² The Complaint was also sent to the Department of Justice, Public Integrity Section ("DOJ") and the Federal Bureau of Investigation's Public Corruption Unit. On February 19, 2016, we received a copy of a letter sent by DOJ to the Complainant that is apparently in response to a second letter addressed to DOJ and to the Commission. The DOJ letter indicates that the Complainant sent the second letter on February 12, 2016. It does not appear that we received a copy of that letter.

³ Compl. at 1, Attach. The note thanks Mr. Vishay for "contributing to my campaign" and says "we all know how important it is to win Iowa." Publicly available sources revealed no information about a person named Daniel Vishay in either Illinois or Iowa.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Compl. at 2. The back of the card contains the message "Designs by Anja Reich, Laguna Beach, California," and lists a phone number and website.

⁸ Compl. at 1.

1 individual who sent this card was raising funds for unknown purposes while pretending to be
2 Secretary Clinton raising funds for her Committee.⁹

3 The Act prohibits persons from fraudulently misrepresenting themselves as speaking, writing,
4 or otherwise acting for or on behalf of any candidate or political party, or as an agent of a candidate
5 or political party, for the purpose of soliciting contributions or donations.¹⁰ Further, the Act prohibits
6 individuals from willfully or knowingly participating in or conspiring to participate in any such plan,
7 scheme, or design.¹¹

8 The Complaint's allegations and the thank you card attached to the Complaint indicate that an
9 individual or individuals fraudulently solicited funds in the name of Secretary Clinton. However,
10 given the particular facts of the case, we do not believe that an investigation would be an efficient use
11 of the Commission's resources. We were unable to locate any public information about the
12 purported contributor, and the letter appears untraceable because it was posted with a stamp rather
13 than by a postage meter or franking machine. Further, the somewhat unsophisticated nature of the
14 note, along with the fact that we have not received factually similar complaints involving the same
15 candidate, may indicate that the scope of the scheme is limited.

16 Therefore, in furtherance of the Commission's priorities and resources relative to other
17 enforcement matters, the Office of General Counsel recommends that the Commission exercise its
18 prosecutorial discretion and dismiss this matter.¹²

19 **RECOMMENDATIONS**

- 20 1. Dismiss the allegation that an unknown respondent violated 52 U.S.C. § 30124;
21

⁹ *Id.*

¹⁰ 52 U.S.C. § 30124(b).

¹¹ *Id.* § (b)(2).

¹² *Heckler v. Chaney*, 470 U.S. 821 (1985).

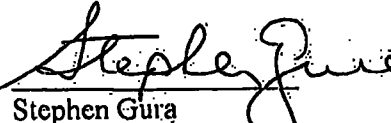
2. Approve the Factual and Legal Analysis;
3. Approve the appropriate letters; and
4. Close the file.

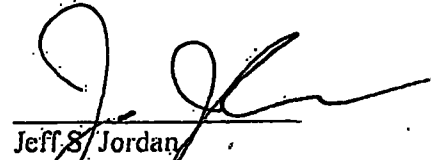
Lisa J. Stevenson
Acting General Counsel

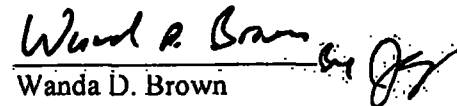
Kathleen M. Guith
Acting Associate General Counsel

12.21.16
Date

BY:


Stephen Gura
Deputy Associate General Counsel


Jeff S. Jordan
Assistant General Counsel


Wanda D. Brown
Attorney

Attachment:
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Unknown Respondent MUR 6975

I. INTRODUCTION

This matter was generated by a Complaint filed by Marc E. Elias, General Counsel to Hillary for America, the principal campaign committee for Presidential candidate Secretary Hillary Clinton (the "Committee") alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") by an unknown respondent.¹ For the reasons discussed below, the Commission has exercised its prosecutorial discretion and dismissed this matter.

II. FACTUAL AND LEGAL ANALYSIS

The Complaint alleges that an unknown individual raised funds for unknown purposes while pretending to be Secretary Clinton raising funds for her Committee.² The Complainant attached an envelope to the Complaint, addressed to Mr. Daniel Vishay of Buffalo Grove, Illinois, which contained a handwritten note purportedly from Secretary Clinton thanking Vishay for his contribution to her campaign.³ The letter was returned to the Committee as "not deliverable as addressed; unable to forward."⁴ The return address on the envelope is also

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